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12
13 **UNITED STATES DISTRICT COURT**

14 **CENTRAL DISTRICT OF CALIFORNIA**

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18
19 OLYMPIA HEALTH CARE LLC,
ALECTO HEALTHCARE SERVICES,
20 LLC, MPT OF LOS ANGELES, L.P.,
MPT OF OLYMPIA, LLC, MPT
21 OPERATING PARTNERSHIP, L.P.,
MEDICAL PROPERTIES TRUST,
22 INC., SHERMAN/GRAYSON
HOSPITAL, LLC, ALECTO
23 HEALTHCARE SERVICES
SHERMAN, LLC, LAXMAN REDDY,
24 MATTHEW WILLIAMS, and
25 JEREMY REDIN,

26 Defendants.
27
28

Case No. 2:23-cv-01783-ODW-PVC

**JOINT STATUS REPORT
CONCERNING CLAIMS AGAINST
DEFENDANTS OLYMPIA
HEALTH CARE LLC, ALECTO
HEALTHCARE SERVICES LLC,
SHERMAN/GRAYSON HOSPITAL,
LLC, ALECTO HEALTHCARE
SERVICES SHERMAN, LLC,
LAXMAN REDDY, MATTHEW
WILLIAMS, AND JEREMY REDIN**

1 Plaintiff United States of America (“Plaintiff”), Defendants Olympia Health
2 Care LLC, Alecto Healthcare Services Sherman, LLC, Laxman Reddy, Matthew
3 Williams, and Jeremy Redin (collectively the “Alecto Defendants”), by and
4 through their undersigned counsel, submit this joint status report as ordered by the
5 Court (Doc. No. 30) in light of the Alecto Defendants’ insurance coverage dispute
6 and the bankruptcy filings and consequent automatic stay of this litigation against
7 Defendants Sherman/Grayson Hospital, LLC (“Sherman Hospital”) and Alecto
8 Healthcare Services LLC (“Alecto”) (collectively, the “Bankrupt Defendants”).

9 1. As previously reported, on October 20, 2023, Plaintiff dismissed its claims,
10 without prejudice, against Defendants MPT of Los Angeles, L.P., MPT of
11 Olympia, LLC, MPT Operating Partnership, L.P., and Medical Properties Trust,
12 Inc., (Doc. No. 35).

13 2. Plaintiff and the Alecto Defendants (collectively, the “Parties”) report, as
14 detailed below, that a continued stay of the litigation is warranted because of
15 (1) the Bankrupt Defendants’ ongoing bankruptcy proceedings, along with (2) the
16 Alecto Defendants’ ongoing dispute with their insurer.

17 3. Regarding the bankruptcies:

18 a. Plaintiff’s claims against the Alecto Defendants are significantly
19 impacted by the Alecto and Sherman Hospital bankruptcies. The Alecto
20 Defendants and the Bankrupt Defendants filed their Answer to the Complaint on
21 May 11, 2023, over a month before Alecto and Sherman Hospital filed separate
22 Chapter 11 bankruptcy petitions on June 16, 2023, and June 23, 2023, respectively,
23 which are pending in two separate cases in the United States Bankruptcy Court for
24 the District of Delaware. While the same judge presides over both bankruptcies,
25 the cases have different U.S. trustees, and Alecto filed as a Subchapter V debtor,
26 while Sherman Hospital is a liquidating Chapter 11 debtor. During its bankruptcy,
27 the assets of Sherman Hospital were sold pursuant to an order of the bankruptcy
28 court and the hospital remains in operation, with a pending motion to settle claims

1 and dismiss the bankruptcy case. Alecto also continues to operate pursuant to its
2 confirmed plan of reorganization, as further described below.

3 b. As Sherman Hospital's bankruptcy is ongoing, the Parties cannot
4 predict when it will be completed. As previously reported, Alecto's Small
5 Business Debtor's Plan of Reorganization (the "Plan") became effective on April
6 19, 2024. Under the Plan Alecto will make three years' worth of payments to
7 creditors, to conclude potentially by mid-2027. Based on the Plan, the United
8 States expects that it will receive less than 10% of the amount of its claims in this
9 case. Since the Parties' previous Joint Status Report of May 6, 2024 (Doc. No.
10 40), there have been further developments in the bankruptcies:

11 (1) In the Alecto bankruptcy, on July 30, 2024, the court approved
12 "final" compensation and expenses totaling \$1.6 million to Alecto's bankruptcy
13 counsel and consultants. An unsecured creditor's appeal of the order confirming
14 the Plan remains pending.

15 (2) The Sherman Hospital bankruptcy case remains ongoing. Although
16 the debtor transferred legal title to its assets through a bankruptcy sale that closed
17 on January 1, 2024, the buyer is still awaiting the issuance of certain licenses
18 before the operations of the hospital are transferred. Sherman Hospital's motion to
19 approve a settlement and dismissal of its Chapter 11 case -- which was filed in
20 October 2023 and to which multiple objections were filed -- remains pending. The
21 most recent status conference hearing occurred on April 17, 2024, with no
22 significant developments reported. Another hearing is scheduled for October 10,
23 2024, concurrently with a hearing in the Alecto bankruptcy.

24 4. Regarding discovery in this case:

25 a. On June 23, 2023, Plaintiff filed the Parties' first stipulation to extend
26 time for the scheduling conference through September 18, 2023 (Doc. No. 22). On
27 June 26, 2023, the Court entered its Order granting the parties' stipulation for
28 continuance of the scheduling conference (Doc. No. 23). As a result, a scheduling

1 order has not been issued. Plaintiff continues to analyze and evaluate the impact of
2 the bankruptcies on its claims against the Alecto Defendants, including the effect
3 of the automatic stay on Plaintiff's ability to conduct discovery of information in
4 Alecto's custody and control, which necessarily hinders the ability to effectively
5 meet with the Parties' counsel, prepare a report to the court, and prepare for and
6 participate in a scheduling conference in court.

7 b. The Parties agree that necessary discovery – most importantly from
8 Alecto – cannot occur without permission from the bankruptcy court. Specifically,
9 although the individual defendants Laxman Reddy, Matt Williams and Jeremy
10 Redin may have access to Alecto's or Sherman Hospital's documents for
11 conducting business, the bankruptcy stay would not allow production of Alecto's
12 or Sherman Hospital's documents in this litigation before this Court. Production of
13 documents in the bankruptcies would require the Bankrupt Defendants to incur
14 substantial expense for attorneys and support staff. Those expenses would require
15 approval by the bankruptcy court, which at this moment cannot be ensured, and
16 which would erode the bankruptcy estate assets of Alecto and/or Sherman Hospital
17 for a potential recovery by Plaintiff.

18 5. Regarding the insurance coverage issues, the Alecto Defendants and the
19 Bankrupt Defendants continue to be involved in ongoing conversations with their
20 insurance companies about potential insurance coverage for certain of Plaintiff's
21 claims. The Parties agree that, optimally, the insurance coverage issues should be
22 resolved before a Rule 16 conference is held or scheduling order is issued. On
23 December 5, 2022, the Alecto Defendants tendered the claims that the United
24 States later asserted in the Complaint against the individual defendants to their
25 primary and excess insurance carriers. With cooperation from the United States,
26 the Alecto Defendants provided a draft complaint to the primary insurance
27 company for its review and consideration on January 22, 2023. Despite follow-up
28 from the Alecto Defendants with their insurance companies, the primary insurance

1 company did not issue a coverage decision until June 15, 2023. The coverage
2 letter denied coverage for the claim under the primary policy and under an excess
3 policy issued by the primary insurance company; the other excess policy follows
4 form and the excess carrier would have presumably followed that coverage
5 decision. The Alecto Defendants disagreed with the primary insurance company's
6 decision to deny coverage under any of the policies and contested the denial.

7 On October 2, 2023, the primary insurance company agreed to withdraw its
8 declination of coverage, but continues to maintain a full reservation of rights
9 pending its ongoing investigation of the claim. Thus, coverage could still
10 ultimately be denied.

11 With the filing of the \$29 million CMS proofs of claim in the Alecto and
12 Sherman Hospital bankruptcies, the United States has informed counsel for the
13 Alecto Defendants that the additional \$17 million in claims may also be asserted
14 against the individual defendants, and may thus be subject to insurance coverage.
15 The United States is now planning to file an amended complaint in this Court to
16 assert those additional claims. Doing so will first require motions or stipulations in
17 the two bankruptcy proceedings to lift the stays of litigation against the Bankrupt
18 Defendants to amend the claims against them in this Court. The Alecto
19 Defendants have provided notice of the additional \$17 million in claims to its
20 insurance carriers and its insurance carriers are reviewing the notice of additional
21 claims and the potential for coverage under applicable insurance policies.

22 The developments could help facilitate a resolution of this matter without
23 further litigation as the Parties explore the possibility for alternative dispute
24 resolution, which could ultimately facilitate a resolution of this matter while
25 respecting judicial economy. Moreover, the insurance policies at issue are eroding
26 policies, meaning insurance money spent on defense costs reduces the amount of
27 money available for potential recovery by Plaintiff. The Parties believe that
28 continuing the stay pending resolution of the bankruptcies and insurance coverage

1 dispute is the most efficient and economical method to resolve this matter at this
2 time, along with the Parties' continuing to file quarterly reports so the Court can
3 evaluate the progress of the bankruptcy and insurance dispute issues relative to the
4 prosecution and needs of this case.

5 6. Plaintiff, however, reserves the right to move to lift the Court's stay of this
6 case and resume litigation if Plaintiff, in its sole discretion, determines that
7 resolution of the bankruptcies or the insurance coverage dispute is no longer in the
8 best interest of the United States.

9 7. This joint status report is made in good faith and not for the purpose of delay
10 or for any other improper purpose.

11 Dated: August 5, 2024

UNITED STATES OF AMERICA

12 By: /s/ John R. Kresse

13 John R. Kresse
14 Senior Trial Counsel
United States Department of Justice

15 Attorneys for Plaintiff United States
16 of America

17 Dated: August 5, 2024

MICHAEL BEST & FRIEDRICH LLP

18 By: /s/ Evan S. Strassberg
19 (CA Bar No. 219336)

20 Attorneys for Defendants Olympja
21 Health Care LLC, Alecto Healthcare
22 Services, LLC, Sherman/Grayson
23 Hospital, LLC, Alecto Healthcare
24 Services Sherman, LLC, Laxman
Reddy, Matthew Williams, and
Jeremy Redin

25 **ATTESTATION**

26
27 In accord with Local Civil Rule 5-4.3.4(a)(2)(i), I attest that all other
28 signatories listed, and on whose behalf this filing is submitted, concur in the

1 filing's content and have authorized the filing.

2 Dated: August 5, 2024

UNITED STATES OF AMERICA

3 By: /s/ John R. Kresse

4 John R. Kresse, Senior Trial Counsel
5 United States Department of Justice
6 Attorneys for Plaintiff United States
7 of America
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